

****Click bookmarks on the sidebar to jump to the full PDF version or click the web link to view the article online in your browser.***

1 - Federal regulations, emergency protocols not followed in West, WFAA, 4/26/13

<http://www.wfaa.com/news/texas-news/Federal-regulations-emergency-protocols-not-followed-in-West-204932411.html>

McLennan County officials did not follow federal regulations requiring public officials to plan for a major chemical incident such as last week's deadly fertilizer plant explosion in West, Texas, a News 8 investigation has found.

2 - New DC Metro ads expose ExxonMobil oil spill in Arkansas, DigitalJournal, 4/29/13

<http://www.digitaljournal.com/article/349077>

Environmental groups are urging the State Department to stop construction on the Keystone XL Pipeline. Starting from Monday, consumer watchdog organization, SumOfUs.org is placing ads in the DC metro system, exposing images of the Arkansas oil spill.

3 - Citizen group sees 'toxic' oil soup in Arkansas, EnergyResources, 4/30/13

http://www.upi.com/Business_News/Energy-Resources/2013/04/30/Citizen-group-sees-toxic-oil-soup-in-Arkansas/UPI-72131367321661/

There's been a "toxic soup" hanging over residents in Mayflower, Ark., as a result of an Exxon Mobil oil pipeline accident, a citizen's group said.

4 - DEQ urges steps to reduce ozone air pollution, BRADV, 4/29/13

<http://theadvocate.com/home/5844840-125/deq-urges-steps-to-reduce>

With the weather warming and the formation of ozone air pollution more likely, the state Department of Environmental Quality is asking people to take steps that can help reduce that pollution.

5 - Rise in river prompts twice-a-week inspections of Mississippi River, BRADV, 4/29/13

<http://theadvocate.com/home/5844779-125/rise-in-river-prompts-twice-a-week>

A bump of water coming down the Mississippi River has prompted the U.S. Army Corps of Engineers to start conducting twice-a-week levee inspections along the lower Mississippi River.

6 - Red River water quality gets mixed reviews, NewsStar, 4/29/13

<http://www.thenewsstar.com/article/DK/20130429/NEWS01/130429004/Red-River-water-quality-gets-mixed-reviews?odyssey=mod|newswell|text|State>

Whether the Red River in Louisiana is a pure stream of water running to the Mississippi River depends on whom you ask. The Louisiana Department of Environmental Quality and the U.S. Geological Survey say it's doing pretty well as far as U.S. rivers go. It has less siltation, only a touch of salinity and not much in the way of pollutants or harmful bacteria.

7 - Contaminants found at El Paso Jobe site in 1989, report says, LasCruces, 4/30/13

http://www.lcsun-news.com/new_mexico-news/ci_23135773/contaminants-found-at-jobe-site-1989-report-says

An environmental consultant for El Paso businessman Stanley Jobe reported finding various contaminants and potentially hazardous substances -- including lead and PCBs -- at the old Toro quarry site on West Paisano Drive and Executive Center Boulevard, according to the firm's report.

8 - Louisiana House committee votes to phase out solar energy tax credits, NOLA, 4/29/13

http://www.nola.com/politics/index.ssf/2013/04/solar_panel_clean_energy_tax_c.html#incart_river

Louisianians receiving solar energy tax credits could see those incentives phased out under a bill passed in committee Monday. The legislation was introduced as the state's clean energy tax credits are coming under increased scrutiny due to a ballooning price tag and questions from the state's power companies.

9 - EPA Gets Additional 30 Days to Propose Revisions to Animal Feedlot Regulations, BNA, 4/30/13

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=30725318&vname=dennotallissues&jd=a0d7z2e9w6&split=0

The Environmental Protection Agency and the Chesapeake Bay Foundation reached an agreement April 29 to give the agency an additional 30 days to propose a rule that would potentially expand the universe of regulated concentrated animal feeding operations.

10 - Oil Industry Accuses EPA of Flawed Process In Implementing Gasoline, Vehicle Standards, BNA, 4/30/13

http://esweb.bna.com/eslw/1245/split_display.adp?fedfid=30725316&vname=dennotallissues&jd=a0d7y9z2p3&split=0

CHICAGO—The petroleum industry accused the Environmental Protection Agency of pursuing a “flawed” implementation strategy for its proposed Tier 3 vehicle emission and fuel standards, asserting April 29 that the regulatory process conflicts with the procedural requirements of the Clean Air Act.

11 - EPA wants more existing data for drinking water study, EENews, 4/30/13

<http://www.eenews.net/energywire/2013/04/30/2>

U.S. EPA is taking an extra six months to collect existing research on hydraulic fracturing as it continues its own study of the oil and gas extraction method.

12 - EPA Cites CWA Permit Ruling To Defend Takeover Of Texas GHG Program, InsideEPA, 4/29/13

<http://insideepa.com/201304292432640/EPA-Daily-News/Daily-News/epa-cites-cwa-permit-ruling-to-defend-takeover-of-texas-ghg-program/menu-id-95.html>

EPA is defending its takeover of greenhouse gas (GHG) permitting in Texas from a lawsuit, with agency lawyers telling an appellate court that is slated to hear the case next week that a recent ruling in a separate case finding EPA can retroactively revoke disposal permits “whenever” it finds harm supports its action in the Lone Star state.



Federal regulations, emergency protocols not followed in West



by BRETT SHIPP

wfaa.com

Posted on April 26, 2013 at 10:02 PM

Updated Saturday, Apr 27 at 7:59 AM

NEWS 8 INVESTIGATES

WEST, Texas — McLennan County officials did not follow federal regulations requiring public officials to plan for a major chemical incident such as last week's deadly fertilizer plant explosion in West, Texas, a News 8 investigation has found.

The finding raises serious questions regarding the decision to send first responders into a potentially explosive situation.

As a community still grieves the 15 killed in the West Fertilizer Co. explosion, some are questioning the planning that, according to federal law, was required to have

taken place under the **Emergency Planning and Community Right to Know Act.**

Each business is required to report its hazardous chemicals to its county. West Fertilizer Co. had, in fact reported its ammonium nitrate to McLennan County. Next, officials are required to set up what's called a Local Emergency Planning Committee.

The LEPC's job, is to "develop an emergency response plan, review it at least annually, and provide information about chemicals in the community to the citizens," the act reads.

"We usually meet once or twice a year," said Steve Howie, the Emergency Management Coordinator of Kaufman County.

Howie heads the Kaufman County LEPC and said he is familiar with the dangers of ammonium nitrate. A fertilizer storage company similar to the one in West is located near downtown Terrell. He says emergency responders in his community are well aware that a fire in the fertilizer storage building means one thing.

"If it's in the building housing 50,000 pounds of ammonium nitrate we are going to evacuate the area and back off," said Howie.

As of Dec. 31, 2012, there were 540,000 pounds of ammonium nitrate at the West Fertilizer Co., federal records show.

In July 2009, Bryan city and fire department officials ordered the evacuation of almost the entire town after a building full of ammonium nitrate caught fire.

The fire chief knew that putting water on the fire could make it worse "and in some cases it can intensify to the point of exploding."

Richard Brown is a former Kaufman County volunteer fire chief. He says news of the fire responders' death in West has sickened him.

"It should not have happened," said Brown. "Those men should not have been where they were."

Brown says county and fire officials should have planned for the worst and any fire that involves ammonium nitrate should mean evacuation.

"They needed to inform their men of the hazards," said Brown. "They needed to formulate a written response plan to those types of hazards."

The federally mandated body of community leaders designed to plan for such hazards did not exist in McLennan County. The official listed as the head of the McLennan County LEPC is County Judge Scott Felton. Felton, appointed to the post last year, told News 8 in an interview that he's never heard of the LEPC.

McLennan County Emergency Operations Coordinator Frank Patterson said he has no knowledge of an emergency planning committee or any meetings with officials in West about potential risks in the community.

After requesting any evidence of LEPC operations, meetings, plans of actions or plans for evacuations, especially with respect to hazards posed at the fertilizer company in West, Patterson's office said no such information exists.

Neither Patterson nor the McLennan County Judge would speak on camera. Both say they have been too busy helping the victims of West. The State Fire Marshal's Office on Friday released a statement saying no actions taken by the firefighters in any way contributed to the explosion.

E-mail [**bshipp@wfaa.com**](mailto:bshipp@wfaa.com)

[Washington](#) - Environmental groups are urging the State Department to stop construction on the Keystone XL Pipeline. Starting from Monday, consumer watchdog organization, SumOfUs.org is placing ads in the DC metro system, exposing images of the Arkansas oil spill.

SumOfUs.org, in partnership with Oil Change International and Environmental Action will be placing ads in the DC metro system exposing images from the ExxonMobil tar sands pipeline spill last month in Arkansas that devastated the suburban town of Mayflower.

The State Department is considering revising its draft environmental review of the Keystone XL pipeline after over one million comments were submitted in opposition to the construction. While this goes on, these ads will run for one month at the Foggy Bottom metro station.

See images of the ads in this article and [view the other ads here](#).



SumOfUs.org

Ads to be placed in the Foggy Bottom Metro Station against the Keystone XL Pipeline.

Kaytee Riek, campaign manager of SumOfUs.org said in a statement:

"Exxon thought it could keep us from finding out what a tar sands spill looked like, by pushing the FAA to institute a no-fly zone and threatening reporters with arrest. Then over 2,000 people donated to make sure the photos that leaked out ended up exactly where it didn't want them: in front of State Department employees deciding this month to approve or reject the Keystone XL tar sands pipeline."

The choice of Foggy Bottom metro station for the ads was made because many State Department employees use this station every day in their commute to and from work.

These ads demand that the State Department not approve the Keystone XL pipeline, due to the high risk of major spills, as well as its climate impacts.

The estimate is that over 10,000 barrels of oil were spilled in the town of Mayflower, Arkansas in March. The devastation from this spill was appalling (see image above of a typical backyard in Mayflower during the spill).

Together with the federal government, ExxonMobil put in place a no-fly zone over the spill site to keep news helicopters from capturing images of the disaster, and this was done to hide the danger of tar sands pipelines.

Big Oil is lobbying furiously for the Keystone XL, a massive pipeline stretching across the heartland of the United States. This pipeline would be responsible for the equivalent of 51 coal plants worth of climate pollution per year were it to be built. Should the pipeline be approved, the Keystone XL will be carrying even more of the same hard-to-clean-up toxic crude as the oil spilled in Arkansas.

David Turnbull, Campaign Director of Oil Change International said in a statement:

"As if the million public comments saying no to Keystone XL weren't enough, the State Department staffers who can help Secretary Kerry and President Obama make the right decision to reject Keystone XL will now be reminded of potential impacts of this pipeline every day as they head to work."

"But that jarring reminder pales in comparison to the effects from toxic spills and climate disruption we all will endure should this dirty tar sands pipeline be built."

Drew Hudson, Director of Environmental Action said:

"The struggle for a safer climate isn't over. With a growing climate justice movement, objections to the State Department report by the EPA, and seemingly a new fossil fuel spill every day, we are going to keep the pressure on."

"Ensuring our decision makers see exactly what their policies mean to the people and wildlife in places like Mayflower, AR is a key to making sure they do the right thing. We won't go away until they do."

About the groups running this campaign:

[SumOfUs.org](#) is a global movement of over one million consumers, investors, and workers all around the world, standing together to hold corporations accountable for their actions and forge a new, sustainable and just path for our global economy.

[Oil Change International](#) is a research, communication, and advocacy organization focused on exposing the true costs of fossil fuels and facilitating the coming transition towards clean energy.

[Environmental Action](#): With over 150,000 activists throughout the United States, Environmental Action works to draw a bright line on the nation's most pressing environmental concerns. From drilling for oil and nuclear power to forest preservation and mountaintop removal mining, we take on the biggest polluters, and work for solutions, not compromises.

Exxon and Big Oil don't want you to see this:

This is what a
tar sands spill
really looks like.

On March 29, 2013, an Exxon pipeline burst in the tiny town of Mayflower, AR, blanketing the whole community with tens of thousands of gallons of toxic tar sands.

Now we know what will happen if Exxon and its Big Oil buddies get their way.

This is just a preview of what's to come if the Keystone XL pipeline gets approved.

SumOfUs.org/TarSandsSpill

03 29 2013

OILCHANGE ENVIRONMENTAL ACTION Sum Of Us

SumOfUs.org

Ads to be placed in the Foggy Bottom Metro Station against the Keystone XL Pipeline.

DEQ urges steps to reduce ozone air pollution



Advocate staff photo by ARTHUR D. LAUCK -- Michael Vince, senior environmental scientist with DEQ, talks about actions citizens can take to reduce ozone pollution during a news conference Monday announcing May as Air Quality Awareness month.

By **AMY WOLD**

Advocate staff writer

With the weather warming and the formation of ozone air pollution more likely, the state Department of Environmental Quality is asking people to take steps that can help reduce that pollution.

Ozone forms when nitrogen oxides and volatile organic compounds combine in the air during hot and sunny days. When there is little wind to disperse the formed ozone, the pollution can accumulate and cause health problems, especially for sensitive populations like children.

Ozone formation typically occurs most often between May 1 and Sept. 30, according to DEQ.

The U.S. Environmental Protection Agency started a program called “Ozone Advance” last year as more stringent ozone standards were being put in place. The program’s objective is to reduce the amount of material in the air that can lead to ozone.

The voluntary program provides support for communities seeking to reduce ozone-causing pollution and helps them in collecting information about their efforts, Michael Vince, DEQ senior environmental scientist said at a news conference Monday to announce May as Air Quality Awareness Month.

This effort to reduce emissions in areas ahead of tougher standards is being done to help keep communities below federal ozone standards levels, he said, “so they can protect themselves and stay in attainment” with the federal standard, Vince said.

Although it’s fairly easy to catalogue public agency actions being taken to reduce ozone formation, Vince said, there are a lot of private actions being taken as well that can have an impact. For example, he said, areas that are putting in compressed natural gas fueling stations would likely see reductions in emissions from vehicles that can add to the ozone-forming mix.

“Those things go to reduce emissions,” he said.

The Ozone Advance program helps bring together private and public actions so communities, and the EPA, can have a more complete picture of what is being done to reduce those ozone-causing emissions.

“It takes time for things we do today to affect the monitors,” Vince said referring to the air monitors that measure for ozone pollution around the state.

People can get daily emails about air quality by subscribing to the free EnviroFlash alerts provided by DEQ and EPA. EnviroFlash is available at www.deq.louisiana.gov/enviroflash. Current air quality information is available at www.deq.louisiana.gov/aqinfo.

Copyright © 2011, Capital City Press LLC • 7290 Bluebonnet Blvd., Baton Rouge, LA 70810 • All Rights Reserved

Energy Resources

Citizen group sees 'toxic' oil soup in Arkansas

Published: April 30, 2013 at 7:34 AM

LITTLE ROCK, Ark., April 30 (UPI) -- There's been a "toxic soup" hanging over residents in Mayflower, Ark., as a result of an Exxon Mobil oil pipeline accident, a citizen's group said.

Exxon said about 5,000 barrels of oil was released last month from a 22-foot rupture on its Pegasus pipeline in Mayflower. The pipeline, built in the 1940s, was carrying a diluted form of Canadian crude oil, dubbed oil sands, at the time of the spill.

Air samples taken March 30, the day after the incident, indicated high levels of compounds considered harmful to human health. The samples were conducted by a student activist trained by the Faulkner County (Ark.) Citizens Advisory Group and Global Community Monitor.

"Total toxic hydrocarbons were detected at more than 88,000 parts per billion in the ambient air and present a complex airborne mixture or soup of toxic chemicals that residents may have been exposed to from the Mayflower tar sands bitumen spill," Neil Carman, a representative from the Texas chapter of the Sierra Club, said in a statement.

Exxon admitted to finding levels of benzene and other harmful chemicals in early samples taken at Mayflower. It said air and water quality was within safe limits in the weeks following the spill, however.

The report, published by the activist groups, said residents are showing signs of exposure to chemicals ranging from benzene, a carcinogen, to toluene, a central nervous system depressant, more than four weeks after the spill.

There was no response from Exxon on the report.

Rise in river prompts twice-a-week inspections of Mississippi River



Advocate staff photo by BILL FEIG -- The USS Kidd floats Monday at its cradle as the Mississippi River rises and its connection to dry land diminishes as the watery gap widens.

Rising water prompts increased inspections

By AMY WOLD

Advocate staff writer

A bump of water coming down the Mississippi River has prompted the U.S. Army Corps of Engineers to start conducting twice-a-week levee inspections along the lower Mississippi River.

The inspections started this week and will continue twice a week until water levels at the Carrollton gauge in New Orleans drop below 11 feet, according to a press release from the corps.

Currently, the inspection area is on the east bank from Baton Rouge to Bohemia and on the west bank from Donaldsonville to Venice, although that could be expanded in the future, said Ricky Boyett, spokesman with the corps in New Orleans.

Although water levels in the Mississippi River are on the rise, the extended forecast from the National Weather Service River Forecast Center doesn't show levels getting above the official flood zone for Baton Rouge or New Orleans.

In Baton Rouge, the flood stage is set at 35 feet, but forecasts show that river levels will reach 34.5 feet on May 10 before the water levels start to go down again.

Flood stage is essentially the level of the river that would go over the natural banks of the river if the levees weren't in place.

Levees under the East Baton Rouge city-parish jurisdiction extend from about 1.5 miles north of the Interstate 10 bridge to just north of LSU and protect up to 46 or 47 feet of flooding on the river.

The rise in river levels will be significantly lower than what occurred in the spring of 2011 when water levels at Baton Rouge rose to 45 feet. After that flood, two areas in Baton Rouge were targeted for additional levee work at the riverfront in downtown Baton Rouge and at Duncan Point south of LSU. Both of those projects have been completed, Boyett said.

Jim Ferguson, East Baton Rouge Parish Department of Public Works flood plain manager, said in an email that the city-parish has been watching the river levels and with the current forecast predicted to be below the flood stage of 35 feet in Baton Rouge, there are no immediate concerns.

"However, as a responsible measure we performed a visual inspection last week, and will again this week and the following weeks until the forecast indicates the river to drop back below our Action Stage of 30 feet," he wrote.

In New Orleans, the flood stage is at 17 feet but as of Monday, river levels were measured at 11.7 feet. That level is expected to rise to about 14 feet on May 11 before the water levels start to recede, according to the National Weather Service River Forecast Center.

Any work that could affect the river or associated levees, including the driving of heavy loads over the levees or subsurface work within 1,500 feet of the levee, is not allowed when the river level reaches 11 feet and is rising in New Orleans. Any work permit holders are asked to call the local levee district for more information, the corps said.

SHREVEPORT -- Whether the Red River in Louisiana is a pure stream of water running to the Mississippi River depends on whom you ask.

The Louisiana Department of Environmental Quality and the U.S. Geological Survey say it's doing pretty well as far as U.S. rivers go. It has less siltation, only a touch of salinity and not much in the way of pollutants or harmful bacteria.

"I would say overall the water quality on the Red is good," says Ben McGee, supervisory hydrologist with the U.S. Geological Survey in Ruston. "I would say it's holding steady."

"Currently, the Red River has no impairments," says Ronnie Kay, an environmental scientist with the Louisiana Department of Environmental Quality who has collected and studied river water samples monthly for 20 years. The samples look at water bacteria and contaminant levels and for traces of discharge from the municipal water treatment plants, power plants, paper mills and other industries that discharge into the river, "and all of those are in compliance," he said. Red River "is safe to swim in. It is safe to boat in and it is of high quality for fish to live in."

But if you ask people who stage cleanups and eye the banks of its many tributaries, it needs help.

"It's a cesspool," says Adam Wilkins, a volunteer with the Red River Cleanup, a local group that organizes Red River boosters to pick up plastic foam, plastic bottles and other debris that clogs the river's tributaries. "I have ridden with the sheriff's marine division up Twelve Mile Bayou and Cross Bayou and can show you places where guys dump illegal trash into the bayous that eventually gets into the river, where black substances are boiling up out of the ground... We've found meth labs on the banks. It's horrendous. Just how people treat it, eventually it's going to die. I don't see how anyone can say it's in good shape."

Ken Guidry with the Red River Waterway Commission said "my understanding is the (U.S. Army) Corps (of Engineers) has made sufficient inroads into point source pollution," referring to natural sources of salt - salinity -- in Texas and Arkansas. "Other than that we are not aware of any pollution sources that impact the river."

(Page 2 of 2)

McGee said "the biggest change to the water quality in the Red River has come from the construction of locks and dams. That changed the hydrology of the river from a free-flowing to a controlled system. There really was a large beneficial impact, from the water quality standpoint, of having the locks and dams in place. The silt and the suspended sediments in the river really dropped out when the locks and dams were put into place. That had a pretty profound impact at least on bacteria. Bacteria use that as a transportation mechanism. Bacteria counts went down dramatically after the locks and dams were put into place."

Benton boater James Rose gets out several times a month, more often in the winter, to fish and duck hunt on the river.

"The main channel of the river is fairly clean, but when you get into the backwater areas you see a lot of trash," he said. "People bank fish and throw stuff into the water, but as for the main river itself, it's fairly clean."

Friends Tim Caldwell and Ross Whitaker, about to launch from the Teague Parkway ramp for an

afternoon excursion, also showed the mix of thoughts on the river and its health.

What you see is □not man-made trash, but stuff like limbs and stumps, things like that,□ Whitaker said.

□They need to spend some money and clean it up,□ says Marte Foster, who walks her dog along the river frequently. □I□ve seen trash, old things that have been out there here and sunk, even old car parts. They need to clean it up.□

Friend Porscha Fields, who also walks her pooch along the river, had mixed feelings.

□It□s not too too bad,□ she said.
tend to be a little nasty.□

□But I□ve seen parts all my life. I think the

News Headline: Contaminants found at El Paso Jobe site in 1989, report says |

News Date: 04/30/2013

Outlet Full Name: Las Cruces Sun-News - Online

News Text: Reporter: Diana

Washington Valdez

An environmental consultant for El Paso businessman Stanley Jobe reported finding various contaminants and potentially hazardous substances -- including lead and PCBs -- at the old Toro quarry site on West Paisano Drive and Executive Center Boulevard, according to the firm's report.

Gregory Evans, a lawyer for Asarco Inc., which is suing Cemex, mentioned the Raba-Kistner Consultants Inc. report during a hearing Monday in federal court, and told the court that Stanley Jobe may be the most important person in the case between Asarco and Cemex.

Inspectors found lead, cadmium, chromium, barium, chloride, sulfate, high pH levels and PCBs on the premises, according to the 1989 Raba-Kistner report, which was addressed to Jobe Concrete Products Inc. on Dec. 5, 1989.

"As instructed by Mr. Jobe, regulatory agencies were not contacted," the Raba-Kistner report states. "Therefore, background of any enforcement actions or pending legal activities involving this property or the owners is not known."

In its lawsuit against Cemex (Cemex is a company that succeeded Jobe's former corporation), Asarco is asking Cemex to pay for its share of the \$19 million in remediation that Asarco agreed to pay for environmental remediation of land belonging to the International Boundary and Water Commission in West El Paso.

On Monday, after hearing brief discussions related to the lawsuit, U.S. District Judge Phil Martinez agreed to reschedule the civil trial for

July.

After the hearing, Evans said Jobe is a key figure to answer questions about alleged contamination that existed or still exists at the site.

"We're going to go where the truth takes us," Evans said. "We want to know what happened to the contamination mentioned by the report. And, if the contamination was removed, did they prepare a manifest of the disposal pursuant to environmental regulations."

Evans said Asarco agreed to pay nearly \$100 million to remove contamination from areas in El Paso affected by its industrial processes, including the money for the IBWC clean-up. He said Cemex and or its predecessors should pay for part of the remediation costs.

Ralph Richards, who represents Jobe, said Monday that he could not comment on the Raba-Kistner report because he had not seen it.

In a previous deposition for the lawsuit, Jobe said he was not aware of any contamination on the property.

A more recent communication, a July 28, 2011, letter from the Brown and Caldwell firm to the Texas Commission on Environmental Quality (TCEQ), alleges that there was contamination at the Cemex site.

Brown and Caldwell is El Paso Water Utilities' engineering consultant for the Paisano waterline replacement project, and Cemex was included in communications related to the Paisano waterline work.

"We are in receipt of Mr. Jon Williams' July 21, 2011 email correspondence regarding the referenced project and contamination encountered last month within the Cemex (Paisano) property," says the letter, which does not specify what contamination was found at the site.

No one at TCEQ or Cemex was immediately available Monday to respond to questions about the alleged contamination at the Cemex property.

The report

The 1989 Raba-Kistner report states that Stanley Jobe commissioned Raba-Kistner Consultants (SW) Inc. (R-KCI) to perform a limited environmental site inspection and assessment of the former Southwest Portland Cement Plant in southwest El Paso, to determine what environmental hazards and potential liabilities may exist on the site and the general limitations for future development.

The production facilities described in the report included a raw materials crusher, rock sampling and storage, raw materials grinding units, four bag houses, a kiln feeding building, rotary-type cement kilns, coal bins, oil and lubricant storage, truck repair and storage, a 500,000 gallon fuel oil storage tank, a boiler shop and an office building.

Raba-Kistner inspectors reported finding several drums of hydrocarbon lubricants and solvents and heavy dust accumulations in the kiln feed building and in the old precipitator building.

They also found three pad-mounted transformers in a fenced-off area on the west side of the precipitator building, two of which "were labeled as containing non-PCB fluid, and the other labeled as 'PCB-contaminated,' meaning that the fluid contains between 50 and 500 (parts per million) PCBs," the report said.

In the raw clinker building, the inspectors detected an odor of natural gas, and more kiln dust accumulations. According to environmental experts, kiln dust can be produced by rotary kilns used in the manufacture of lime or cement.

"Some types of dust from cement production processes may potentially cause runoff waters and effluents to become very basic (i.e., have a high pH In all cases, the dust is (a) potential health hazard due to fugitive particulate matter," the Raba-Kistner report said.

The consultant's inspectors also found several areas where lubricating oils, fuels and solvents and other hydrocarbons were stored or used.

"Liquid hydrocarbons have a potential for contaminating surface and underground water supplies and are subject to regulation by the Texas Water Commission," the report said. "The use of metal-containing additives during cement production creates the likelihood that refractory brick and waste products from the kilns have significant metal concentrations."

Raba-Kistner had two different types of kiln brick analyzed for total chromium. One of the bricks had a concentration of 800 mg/kg of chromium and the second one had a concentration of 1,200 mg/kg.

"The pH of the soil samples is generally high and again, the highest values are from materials near the bag house operations area may be considered hazardous where pH reading are 12 or greater," the report said. The pH is the level of acidity or alkalinity in soil.

A test sample taken from near the truck repair shop had a total petroleum hydrocarbon (TPH) concentration of 1,974 mg/kg.

"This is considered by the Texas Department of Health to be a Class I Industrial Waste, equivalent to a Class I Hazardous Waste, and would need to be disposed of in a Class I landfill," the report said.

A paint sample from a shower and change room had 54 mg/kg of lead, which was in the range of low to medium.

Raba-Kistner inspectors did not have access to some parts of the facility that were locked or sealed off, and their inspection was not meant to be comprehensive.

"The soil samples in general have high concentrations of metals, and a high pH ... (Disposal) of kiln dust is treated on a site specific basis. Disposal plans for this material should be made after consulting with the EPA, Texas Department of Health and the Texas Water Commission ... Due to potential for serious pH and metals contamination of the aquifer, we recommend several wells on site to monitor, and due to the close proximity of the Rio Grande, samples of storm water runoff from the site should also be obtained and analyzed."

In unsafe concentrations, some heavy metals, PCBs and other substances mentioned in the report are considered to be cancer-causing or toxic. Some of the substances occur in nature, such as arsenic, and others are released into the environment by industrial processes.

The Raba-Kistner 1989 report is titled "An Environmental Site Inspection and Limited Asbestos Survey of the Abandoned Southwest Portland Cement Facility El Paso, Texas Performed for Jobe Concrete Products, Inc."

The plant at West Paisano and Executive Center Boulevard was commissioned in 1907, used coal for energy, and was modified over the years until it ceased operations in 1986. At the time of the 1989 report, part of the facility was used by Southwestern Sunbelt Cement Co. as a distribution center, was not part of the environmental assessment.

Jobe Materials LP, the firm most recently associated with Stanley Jobe, supplies ready-mixed concrete, construction aggregates, asphalt and landscaping materials in West Texas and Southern New Mexico.

According to testimony by Ralph Richards for New Mexico's environmental regulators, Jobe Concrete Products Inc. was a Texas corporation owned by Stanley Jobe and members of his family, which was sold to the British company RMC Group in 1999.

From 1999 until March 2005, Jobe worked for RMC and was the president of Jobe Concrete Products Inc. In March 2005, Cemex purchased all the assets of RMC Group plc, including all of its subsidiaries,

which included Jobe Concrete Products Inc., and that's how Cemex became the owner of Jobe Concrete Products Inc. in March 2005, Richards said.

Richards is vice president and general counsel of Jobe Materials LP.

Diana Washington Valdez may be reached at dvaldez@elpasotimes.com; 546-6140.



Everything New Orleans

Louisiana House committee votes to phase out solar energy tax credits

[Lauren McGaughy, NOLA.com | The Times Picayune](#) By [Lauren McGaughy, NOLA.com | The Times Picayune](#)

Email the author | [Follow on Twitter](#)

on April 29, 2013 at 1:45 PM, updated April 29, 2013 at 1:48 PM

Louisianians receiving solar energy tax credits could see those incentives phased out under a bill passed in committee Monday. The legislation was introduced as the state's clean energy tax credits are coming under increased scrutiny due to a ballooning price tag and questions from the state's power companies.

"(Wind and solar energy) systems will become more affordable over time. And therefore the discount, or the rebate reduction, won't really be realized because the cost of systems are really coming down as more people put them in," bill sponsor Rep. Erich Ponti, R-Baton Rouge, told the committee.

[House Bill 705](#) would reduce income tax credits for the purchase and installation costs of solar electric and thermal systems and would eliminate the tax credit for wind generators, which have not gained much traction in the state due to its relatively flat terrain.

Louisianians currently can claim up to 50 percent of the first \$25,000 in costs for the purchase and installation of solar energy systems. The bill would split this category in two -- solar thermal, which provides heating, and solar electric, which provides power.

Solar thermal tax credits would be immediately phased down from the current level to 50 percent of the first \$10,000 in costs; after 2017, the level would be lowered to 35 percent of \$10,000. Solar electric credits would be kept at current levels until 2017 and then would be phased down to 35 percent of \$25,000 in costs.

During committee testimony, Ponti said the bill was written with the consent and input of the clean-energy industry.

"The industry has worked with us. The industry understands this is the fate of tax credits, that it's time to roll back," Ponti said, calling his bill "very straightforward, very progressive."

The bill would also remove the Department of Natural Resources from the equation, putting all authority over the issuance of the credits with the Department of Revenue. Ponti said Revenue already has control over the process and this provision would bring the statute in line with current practice.

October figures released by the state showed the solar energy tax incentives [have far exceeded](#) original cost projections by a factor of 20. When first approved by lawmakers five years ago, the incentives were not expected to cost state taxpayers more than \$500,000 a year in lost tax revenue. The real price tag amounted to nearly \$39 million through 2011.

Opponents of the tax credit also argue solar energy system users generating their own electricity are hurting the state's power providers by using the company's electrical distribution system without paying their share to fund repairs and upgrades. The state utilities commission was [slated to discuss the issue](#), called "net metering," at its April meeting but tabled the question until May.

To [receive updates](#) on all Louisiana legislative session news from the Capitol in Baton Rouge, [follow @brnola on Twitter](#) or "

© NOLA.com. All rights reserved.



Source: Daily Environment Report: News Archive > 2013 > April > 04/30/2013 > News > Water Pollution: EPA Gets Additional 30 Days to Propose Revisions to Animal Feedlot Regulations

83 DEN A-6

Water Pollution

EPA Gets Additional 30 Days to Propose Revisions to Animal Feedlot Regulations



By Amena H. Saiyid

The Environmental Protection Agency and the Chesapeake Bay Foundation reached an agreement April 29 to give the agency an additional 30 days to propose a rule that would potentially expand the universe of regulated concentrated animal feeding operations.

"EPA and the Chesapeake Bay Foundation have agreed to extend the deadline for a proposed CAFO rule for 30 days from April 30, 2013," the agency told BNA said in a statement.

Foundation spokesman John Surrick also confirmed that the deadline had been postponed.

EPA originally had reached a legal settlement in May 2010 with the environmental group to propose revisions by June 30, 2012, to the existing rules for CAFOs, but the agency later renegotiated the deadline to April 30, 2013 (*Fowler v. EPA*, D.D.C., No. 1:09-cv-5, 5/11/10; 192 DEN A-17, 10/4/12)..

The legal settlement required EPA to regulate more CAFOs because they are sources of phosphorus, nitrogen, and sediment discharges that are adversely affecting water quality. Excessive nutrient pollution, which collectively refers to nitrogen and phosphorus, can cause oxygen-depleted "dead zones."

Under terms of the legal settlement, the proposed revisions would enable EPA to expand the universe of regulated CAFOs under the Clean Water Act by making it easier to designate animal feeding operations as CAFOs, which would increase the number of animal feeding operations that would qualify.

Regulated CAFOs must obtain National Pollutant Discharge Elimination System permits to control discharges of nitrogen, phosphorus, and sediment runoff under regulations at 40 C.F.R. Part 122.

The agency also was required under this 2010 settlement to propose more stringent Clean Water Act permitting requirements for land application of manure, litter, and wastewater.

Groups Expected Delay

As of April 29, EPA had not sent a proposed rule to the White House Office of Management and Budget for review. The OMB review is usually the last step before a federal agency releases a policy, guidance, or rule to the public. OMB's Office of Information and Regulatory Affairs normally completes regulatory reviews within 90 days.

Environmental and agriculture groups had told BNA they did not expect EPA to meet the April 30 deadline.

Tarah Heinzen, attorney for the nonprofit Environmental Integrity Project, told BNA April 29 that the group had coordinated a meeting between the Iowa Citizens for Community Improvement and EPA on April 22 to emphasize the need for a revised CAFO rule.

For More Information

More information on EPA regulation of CAFOs is available at

<http://cfpub.epa.gov/npdes/afo/cafofinalrule.cfm>.

Contact us at <http://www.bna.com/contact/index.html> or call 1-800-372-1033

ISSN 2167-8065

Copyright © 2013, The Bureau of National Affairs, Inc. Reproduction or redistribution, in whole or in part, and in any form, without express written permission, is prohibited except as permitted by the BNA Copyright Policy. <http://www.bna.com/corp/index.html#V>

**Environment & Safety
Resource Center™**

Source: Daily Environment Report: News Archive > 2013 > April > 04/30/2013 > News > Air Pollution: Oil Industry Accuses EPA of Flawed Process In Implementing Gasoline, Vehicle Standards

83 DEN A-17***Air Pollution*****Oil Industry Accuses EPA of Flawed Process
In Implementing Gasoline, Vehicle Standards***By Michael Bologna*

CHICAGO—The petroleum industry accused the Environmental Protection Agency of pursuing a “flawed” implementation strategy for its proposed Tier 3 vehicle emission and fuel standards, asserting April 29 that the regulatory process conflicts with the procedural requirements of the Clean Air Act.

The industry, however, clearly expressed a minority perspective during the second and final public hearing about the Tier 3 proposal. Representatives of the auto industry, engine manufacturers, state regulators, and environmental and public health organizations all endorsed EPA's plan.

“What is unique about this proceeding is the refining industry is pretty much isolated, pretty much alone,” Tim Regan, president of the Emissions Control Technology Association (ECTA), told BNA.

“You have a lot of agreement,” Regan said. “You have the auto industry, you have technology guys that supply the auto industry with emissions control technology, you have the unions here, you have the main environmental associations, you have the NGOs, you have the scientists with the Union of Concerned Scientists, and you have the states.”

The views of the oil industry did not mesh with the perspectives of the nearly 80 speakers participating in the public hearing, Regan added.

EPA's proposal, which was announced March 29, would establish new emission standards for passenger cars and trucks and cut the allowable sulfur content of gasoline from 30 parts per million to 10 ppm (62 DEN A-6, 4/1/13).

EPA will accept written comments on the proposal through June 13 (78 Fed. Reg. 20,881).

The first public hearing on the Tier 3 standard was held April 24 in Philadelphia (80 DEN A-14, 4/25/13).

Scientific Justification Also Attacked

Patrick Kelly, senior policy adviser with the American Petroleum Institute (API), questioned EPA's scientific justification for the proposed rulemaking and the cost and benefits associated with the plan.

But Kelly used much of his testimony to object to Tier 3 on procedural grounds, noting that the proposal has not been published in the *Federal Register*. Kelly said the agency's failure to publish the rule conflicts with Section 307 of the air act.

“EPA is pursuing a flawed process in developing this rule,” Kelly said. “It is outrageous for EPA to hold public hearings as the docket continues to be populated with supporting information. It is invalid for EPA to hold these hearings in advance of publishing the rule in the *Federal Register*.”

Kelly called on EPA to publish the proposed rule, revise its comment schedule, and organize another round of public hearings. In addition, Kelly objected to the compliance costs of the proposal for his industry, which he estimated at \$2.4 billion annually, or between 6 cents and 9 cents per gallon of fuel.

He repeated API's views that the three-year compliance deadline for the Tier 3 sulfur standard is "grossly inadequate" and requested a six-year implementation time frame.

Disagreement on Compliance Costs

Economist Hal Singer outlined research he performed on behalf of the ECTA that refutes API's compliance cost estimates.

Singer said API's estimates fail to account for averaging and trading of credits, which would reduce marginal compliance costs and bring API's numbers closer to the penny-per-gallon compliance estimate developed by EPA. Singer noted that averaging and trading would actually reduce EPA's estimated compliance costs from 0.97 to 0.79 cent per gallon, a reduction of nearly 19 percent.

The proposed sulfur standards include an "averaging, banking, and trading program that would allow refiners and importers to spread out their investments through an early credit program and rely on "ongoing nationwide averaging" to meet the sulfur standard, according to EPA.

Singer, managing director of Navigant Economics in Washington D.C., pointed to additional flaws in API's cost analysis and concluded that API and its economic researchers "have a history of making projections that served refiners' interests but did not prove accurate in hindsight."

Tier 3 Called a 'Breakthrough.'

Bob Babik, director of environment, energy, and safety policy at General Motors Corp., summarized the views of several automakers, calling Tier 3 a "breakthrough" that will allow for more efficient introduction of technologies to reduce pollution from passenger cars and trucks.

Babik, however, called on EPA to take additional steps to harmonize the proposed rule with California's Low Emission Vehicle III standards.

Babik added that the Tier 3 program cannot succeed without a commitment from the petroleum industry to reduce the sulfur content of gasoline.

"Automakers will need the cleaner fuels to meet the stringent Tier 3 emission standards EPA and California envision," Babik said. "We must have clean fuels because the vehicle and fuel function as a single system in determining the emission performance of the vehicle. As EPA moves ahead to finalize the Tier 3 requirements, GM believes the provision for lower sulfur fuels and other clean properties is essential."

Health, Environmental Benefits Emphasized

The American Lung Association of Illinois was one of several organizations to stress the public health and environmental benefits associated with the Tier 3 program. While there are many sources of air pollution, the association pointed to automobiles as a major contributor to premature deaths and respiratory illnesses that cost the U.S. economy billions of dollars each year.

"The air pollution we are talking about controlling is not inconsiderable," said Michael Kolleng, who manages the lung association's healthy air campaign. "In the national inventory, about 20 percent of volatile organic compounds, a third of nitrogen oxides and over half of carbon monoxide are emitted by the single sector of highway vehicles."

For More Information

Navigant Economics' analysis of the Tier 3 compliance costs is available at http://www.ectausa.com/061212-Economic-Analysis-of-the-Implications-of-Tier-3-Sulfur-Reduction-Final_embargoed.pdf.

Contact us at <http://www.bna.com/contact/index.html> or call 1-800-372-1033

ISSN 2167-8065

Copyright © 2013, The Bureau of National Affairs, Inc. Reproduction or redistribution, in whole or in part, and in any form, without express written permission, is prohibited except as permitted by the BNA Copyright

Policy. <http://www.bna.com/corp/index.html#V>

THE POLITICS AND BUSINESS OF UNCONVENTIONAL ENERGY

2. HYDRAULIC FRACTURING:

EPA wants more existing data for drinking water study

Ellen M. Gilmer, E&E reporter

Published: Tuesday, April 30, 2013

U.S. EPA is taking an extra six months to collect existing research on hydraulic fracturing as it continues its own study of the oil and gas extraction method.

The agency stressed yesterday that the deadline extension would not affect the release date of the full draft report, due in late 2014.

"This is a natural extension of the [request for information] to give people more time to submit information," spokeswoman Molly Hooven said in a statement yesterday. "The date for the draft report of results is not affected by this extension."

The new deadline for the public to submit outside research is Nov. 15, adding more than six months to the original deadline, which had been set for today. The agency announced the extension in a *Federal Register* [notice](#) this week.

"While the EPA conducts a thorough literature search, there may be studies or other primary technical sources that are not available through the open literature," the notice said. "The EPA would appreciate receiving information from the public to help inform current and future research."

EPA first asked for existing scientific research from industry, environmentalists and researchers last fall ([EnergyWire](#), Nov. 13, 2012) and plans to accept additional outside research in 2014.

The fracking study, first requested by a Democrat-controlled House of Representatives, has seen many changes to its timeline since it was announced in early 2010. A final study was supposed to be released at the end of 2012, but the agency instead published a progress report on the information-gathering process ([Greenwire](#), Dec. 21, 2012).

That progress report is now subject to public comment and peer review, and a final draft report is slated for late 2014.

The study is in response to growing public concern about the safety of fracking, especially as it relates to drinking water. The production technique, paired with horizontal drilling, has spread quickly across the country and raised questions about whether current state regulations are adequate to protect public health and the environment.

Critics in the industry, meanwhile, question whether EPA should spend resources on the project at all, arguing that the states have been regulating oil and gas development for years and that the Obama administration is overstepping its bounds by involving EPA in the issue.

Peer reviewers for the research will meet next week to give feedback on the study's progress so far ([EnergyWire](#), March 26).

Advertisement

[E&E Home](#) | [About](#) | [Start a Trial](#) | [Get E-mail](#)

[Alerts](#) | [Advertise](#) | [Staff Directory](#) | [Reports](#) | [Public Site](#) | [RSS](#)

*The Premier Information Source for Professionals Who Track Environmental
and Energy Policy.*

© 1996-2013 E&E Publishing, LLC [Privacy Policy](#) [Site Map](#)



Daily News

EPA Cites CWA Permit Ruling To Defend Takeover Of Texas GHG Program

Posted: April 29, 2013

EPA is defending its takeover of greenhouse gas (GHG) permitting in Texas from a lawsuit, with agency lawyers telling an appellate court that is slated to hear the case next week that a recent ruling in a separate case finding EPA can retroactively revoke disposal permits "whenever" it finds harm supports its action in the Lone Star state.

In an [April 26 notice of supplemental authority](#), a Justice Department (DOJ) lawyer told the appellate panel hearing Texas' challenge to EPA's takeover of the Texas program that the April 23 ruling in *Mingo Logan Coal Company v. United States Environmental Protection Agency* broadly interprets the agency's Clean Water Act (CWA) authority to veto dredge-and-fill permits issued by the Army Corps of Engineers "whenever" it finds harm, echoing language Congress used in the Clean Air Act to find a state permit program is inadequate.

"Congress used the same 'expansive conjunction' in section 110(k)(6) of the Clean Air Act (CAA), a provision central to this litigation, in authorizing EPA to revise its action approving a state's CAA implementation plan 'whenever the Administrator determines that the Administrator's action approving' such a plan 'was in error,'" wrote DOJ lawyer Madeline Fleisher.

Although EPA left Texas with delegated Clean Air Act authority to write air permits for conventional pollutants, the agency in 2011 stepped in to directly write GHG permits in the state, which opposes regulation of GHGs.

EPA justified the move in part by finding that Texas' state implementation plan (SIP) -- a blueprint for meeting federal air standards -- was invalid because it did not include GHG permitting provisions, even though EPA approved the SIP in 1992.

Texas sued EPA over the permit takeover, and in briefs filed with the U.S. Court of Appeals for the District of Columbia Circuit the state has argued that the agency cannot reverse a prior SIP approval. The court is slated to hear [oral arguments](#) in the Texas suit, *State of Texas, et al. v. EPA, et al.*, and a related suit known as *Utility Air Regulatory Group, et al. v. EPA, et al.*, also challenging EPA's GHG permitting policies, May 7.

Texas says EPA wrongly applied section 110(k)(6), to "correct," or reverse, its prior approval of the state's prevention of significant deterioration (PSD) permit program, depriving Texas of the chance to modify its PSD SIP to accommodate GHG regulation for stationary sources.

EPA in briefing has defended its right to retroactively correct SIPs if they do not allow for automatic updates to incorporate new pollutants such as GHGs. "The Agency reasonably determined that its approval of Texas's PSD SIP in 1992 was erroneous, since at the time the [CAA] required PSD to apply to newly regulated pollutants, but the PSD SIP failed to address how Texas would meet that requirement," EPA said in an Oct. 12 brief.

EPA's Authority

The agency is now trying to bolster its case by citing the D.C. Circuit's ruling in the *Mingo Logan* case. There, the court reversed a lower court ruling that vacated EPA's 2009 decision withdrawing two West Virginia streams as disposal sites for mountaintop mining operations -- despite the Corps having issued a final permit under section 404 of the water law years earlier.

"Section 404 [of the CWA] imposes no temporal limit on the Administrator's authority to withdraw the Corps's [disposal] specification but instead expressly empowers him to prohibit, restrict or withdraw the specification 'whenever' he makes a

determination that the statutory 'unacceptable adverse effect' will result," Judge Karen LeCraft Henderson wrote in the unanimous decision broadly upholding EPA's power to retroactively veto the permits.

In the April 26 letter to the D.C. Circuit, DOJ lawyer Madeline Fleisher, on EPA's behalf, cites the *Mingo* decision to justify the agency's decision to revise its prior approval of Texas' SIP.

Fleisher cites the *Mingo* ruling as saying, "Using the expansive conjunction 'whenever,' the Congress made plain its intent to grant the Administrator authority to prohibit/deny/restrict/withdraw a specification at any time." The D.C. Circuit's decision in *Mingo* "accordingly confirms EPA's position that it has authority to act under section 110(k)(6) 'at any time,'" according to the letter. -- *Anthony Lacey* (alacey@iwpnews.com)

Related News: Air Climate Policy Watch Litigation

2432640

Inside EPA
Clean Air Report
Water Policy Report
Superfund Report
Inside Cal/EPA
Risk Policy Report
Defense Environment Alert
Environmental Policy Alert

Air
Water
Waste
Energy
Climate Policy Watch
On Capitol Hill
Budget
Litigation
Toxics
Natural Gas
Election 2012

Daily News
Documents
Insider
Blog

SPECIAL REPORTS

Federal Facilities Watch
Outlook 2013

About Us
Terms and Conditions
Privacy Policy
Home Page

Economical site license packages are available to fit any size organization, from a few people at one location to company wide access. For more information on how you can get greater access to InsideEPA.com for your office, contact Online Customer Service at 703-416-8505 or iepa@iwpnews.com.

© 2000-2013. Inside Washington Publishers | [Contact Us](#)